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August 6, 2009

**VIA E-FILING**

Charles L.A. Terreni, Esquire  
Chief Clerk of the Commission  
SC Public Service Commission  
P. O. Drawer 11649  
Columbia, SC 29211

RE: Application of Avondale Mills, Inc. for Approval of a New Schedule of  
Rates and Charges for Water and Sewerage Services Provided to Customers  
Docket No.: 2008-460-WS

Dear Mr. Terreni:

Avondale Mills, Inc. ("Avondale"), herewith moves the South Carolina Public Service Commission ("Commission") to reconsider its order of August 5, 2009, suspending the rates granted Avondale by this Commission's Order No. 2009-394 and to reinstate all rates granted in Order No. 2009-394. The Commission order of August 5, 2009, violates Avondale's right to due process, denies Avondale an opportunity to be heard, and is otherwise violative of state law.

Commission Order No. 2009-394 issued June 18, 2009, granted Avondale certain rate relief pursuant to S.C. Code Ann. Section 58-5-240. Avondale and the Office of Regulatory Staff ("ORS") were the only parties to the above docket. Avondale has complied with all of this Commission's requirements including that of notice to its customers that it was seeking rate relief. Avondale cooperated fully with the ORS and provided all information required in connection with the ORS audit and analysis of the rate application. The Commission Order No. 2009-394 was issued upon lawful authority, is in all respects final and binding, and is not subject to collateral attack.

However, by letter dated August 3, 2009, and a subsequent letter dated August 4, 2009, members of the Aiken County Legislative Delegation requested this Commission to amend Order No. 2009-394. Although having notice of the pendency of the above docket, neither the Aiken County Legislative Delegation nor the signatories to the August 3 and 4, 2009, correspondence sought to intervene in the above docket.

The Commission erred in issuing its order dated August 5, 2009, in a number of respects. First, the Aiken County Legislative Delegation and its members lack standing to seek an amendment of Order No. 2009-394. Second, the Commission lacks matter jurisdiction over the issues raised by the Aiken County Legislative Delegation in its letters of August 3 and 4, 2009.

In addition, the August 5, 2009, order was issued without meaningful notice and opportunity for Avondale to be heard in response to the Delegation's letters. The Delegation members presented no factual showing as a basis for their request nor was any evidence in support of the Delegation's request advanced at the agenda meeting on August 5, 2009.

Having required Avondale at considerable effort and expense to satisfy the Commission of its need for rate relief, the Commission now, without statutory or constitutional authority, requires Avondale to justify the rates granted it by the Commission. Avondale cooperated fully with the ORS audit and investigation of its rate application. Indeed, under state law the ORS is now vested with the authority to make inspections, audits, and examinations of public utilities. The Commission has been deprived of that authority. S.C. Code Ann. Section 58-3-60. The information requested in the August 5, 2009, order was provided to the ORS. Reserving its rights to object to the Commission Order of August 5, 2009, Avondale is prepared to provide the billing and consumption information to the Commission and parties as ordered.

Moreover, the statutes and Commission regulations applicable to rate application filings are designed to provide utility customers ample notice of the rate increase proposed by the utility. Here, Avondale, following the applicable statutes and Commission regulations, provided notice to its customers of the proposed rate increase, and provided notice to its customers that the rates requested in Avondale's application had been granted by the Commission. A public hearing was held in Graniteville after notice to the customers where all interested parties were invited to attend and object to the rates requested. Last, there was a fully litigated hearing on the merits June 2, 2009. Avondale's customers had ample notice of the rate increase and all notice required by law.

Nor can the parties claim surprise at the size of the rate relief granted by Order No. 2009-394. As the parties are now aware, total billings for July 2009 were \$56,659. Annual revenues as projected by ORS audit were \$723,826 which is an average of \$60,319 per month. So the billings for the month of July 2009 were actually below that projected by ORS. Avondale's customers' seasonal use was apparent from the record. First, all documentation produced during discovery reflected the seasonal use by Avondale's customers for irrigation. Second, a request for irrigation rates was squarely before the Commission in this docket and the Commission granted rate relief with respect to irrigation rates. The Commission acknowledges that Avondale has suffered severe financial loss. Avondale cannot, however, continue to operate its water and wastewater systems at a loss based on rates granted in 1980.

Further, and in summary, the Commission order of August 5, 2009, is in excess of the statutory authority of the Commission, made upon unlawful procedure, violative of applicable constitutional and statutory provisions, is clearly erroneous in view of the reliable, probative, and substantial

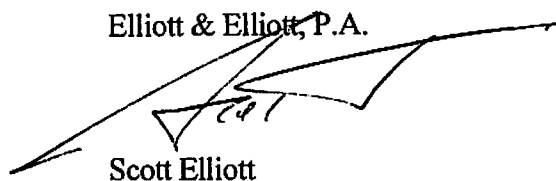
Charles, L.A. Terreni, Esquire  
August 6, 2009  
Page 3

evidence on the whole record and is arbitrary, capricious, and characterized by abuse of discretion (and clearly constitutes an unwarranted exercise of discretion).

The speed with which the Commission has acted has deprived Avondale of any meaningful notice and opportunity to be heard. Due process requires that Avondale be provided a full airing of the issues raised by the August 3 and 4, 2009, correspondence from the Delegation members and by the Commission in its August 5, 2009, order. For the reasons set out, Avondale Mills, Inc. respectfully requests that the Commission rescind its order of August 5, 2009, and reinstate the rates granted Avondale in Order No. 2009-394.

Sincerely,

Elliott & Elliott, P.A.

A handwritten signature in black ink, appearing to read 'Scott Elliott', is written over a horizontal line. The signature is stylized with a large, sweeping initial 'S'.

Scott Elliott

SE/mlw

cc: Jeffrey M. Nelson, Esq.  
Shealy B. Reibold, Esq.  
C. Dukes Scott, Esq.  
Honorable Shane Massey  
Honorable J. Roland Smith  
Honorable Tom Young, Jr.

## CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleading to the persons indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

RE: Application of Avondale Mills, Inc. for Approval of New  
Schedule of Rates and Charges for Water and Sewage  
Services Provided to Customers

Docket No.: 2008-460-WS

PARTIES SERVED: C. Dukes Scott, Esquire  
Jeffrey M. Nelson, Esquire  
Shealy Boland Reibold, Esquire  
Office of Regulatory Staff  
P. O. Box 11263  
Columbia, SC 29211

The Honorable Shane Massey  
The Honorable J. Roland Smith  
The Honorable Tom Young, Jr.  
Aiken County Legislative Delegation  
828 Richland Avenue, West  
Aiken, SC 29801

PLEADING: Motion to Reconsider

  
Marcia W. Walters, Legal Assistant

August 6, 2009